

### SUPPORT FOR THE AMENDMENT

Support for the amendments to claims 1 and 3 is found on page 3, lines 26-27 and on page 4, line 16. Support for the amendment to claim 7 is found on page 3, lines 26-27. Support for claims 8-22 is found on page 3, lines 1-24. Support for claim 23 is found on page 4, lines 16-17.

No new matter would be added to this application by entry of this amendment. Upon entry of this amendment claims 1-5 and 7-23 will now be active in this application.

### REQUEST FOR RECONSIDERATION

The present invention is directed to a method of treating hair and a pre-shampoo treatment.

Methods for treating hair which result in improved feel, stylability and manageability have typically been treatment of shampooed wet hair. Unfortunately, such conventional hair treatment methods leave room for improved performance in terms of feel and stability.

The present invention addresses this problem by providing a method for treating hair comprising applying to **dry** hair, having a water content of 30% by weight or less, a composition comprising an oil agent and a solvent wherein the water content of the **composition** is 15% or lower. The present invention is also provided for by a preshampooed treatment composition comprising 0.5-50% by weight of an oil agent, a solvent selected from the group consisting of C<sub>1-6</sub> alcohol, an aromatic alcohol and a mixture thereof, and a water content of from 0-15 wt%. Applicants have discovered that such a method and composition provides for hair treatment of improved feel and stability and manageability. Such a method and composition are nowhere disclosed or suggested in the cited prior art of record.

Claims 1-5 and 8-23:

This embodiment of the present invention is directed to methods of treating hair comprising applying a hair treatment composition to **dry** hair having a water content of 30 wt.% or less.

The rejection of Claims 1-5 under 35 U.S.C. § 102(b) over Altobelli et al U.S. 5,110,318 is respectfully traversed.

Altobelli et al fail to disclose or suggest a method in which a hair treatment composition is applied to **dry** hair having a water content of 30 wt.% or less, and washed away.

Altobelli et al describes a method in which the hair coloring composition is applied in a one-step coloring and conditioning process in which prior to application of the composition to the hair, the hair is shampooed and **excess water** is squeezed out (col. 6, lines 10-18). During the shampooing process, water is introduced onto the hair and the excess water is squeezed out. The reference teaches to apply the composition to **wet** hair. While it is asserted in the outstanding Official Action that such a process produces “sufficiently dry hair”, such a process does not describe a method in which a hair treatment composition is applied to dry hair having a water content of 30 wt.% or less.

Applicants respectfully submit that a process of shampooing hair followed by squeezing out the excess water does not produce dry hair having a water content of 30 wt. % or less and accordingly, does not anticipate or suggest the claimed method.

As evidence of the amount of water which would remain in the hair after shampooing then squeezing the excess water out, Applicants have conducted tests which measured the amount of water remaining in hair after shampooing then 1) squeezing out the excess water

and 2) towel drying. The test data was provided in the declaration of Mr. Kenichi Ueyama, a named inventor of the above-identified application. The original signed declaration is attached. The tests were performed by shampooing hair, then either squeezing out the excess water or towel drying, then comparing the weight of the hair against the weight of dry hair.

The data is summarized below:

Moisture content after squeezing out excess water	Moisture content after towel drying
94%	57.6%

In the cases of squeezing out the excess water and towel drying, the remaining amount of water was far in excess of 30 wt.% of water.

In contrast, the present invention is directed to a method of treating hair in which a hair treatment composition is applied to **dry hair having a water content of 30 wt. % or less** then washed away. Applicants note that the claims have been amended to specify that dry hair has a water content of 30 wt. % or less. As such, Applicants' claim limitation of "dry hair having a water content of 30 wt.% or less" is clearly not suggested by the reference of Altobelli et al which describes the application of a hair composition to wet hair, in which the amount of water is suggested to be in the range of 57 to 94%. The cited reference fails to teach the claim limitation of applying the composition to "dry hair having a water content of 30 wt. % or less" and as such the claimed invention is neither anticipated nor made obvious from this reference.

To establish a *prima facie* case of obviousness, three **basic** criteria must be met. First there must be some **suggestion or motivation**, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a **reasonable expectation of success**. Finally, the prior art reference (or references when

combined) must teach or suggest **all the claim limitations**. (M.P.E.P. 2143)  
(emphasis added)

Accordingly, the Examiner must 1) find prior art references which teach or suggest all the claim limitations; 2) provide motivation to combine or modify the prior art teachings, found in the references or from knowledge generally available to those of ordinary skill in the art; and 3) show how the prior art provides for a reasonable expectation of success.

Since the cited prior art of record fails to disclose or suggest the claim limitation of “dry hair having a water content of 30 wt.% or less” the present invention is clearly not anticipated nor obvious from the cited reference and accordingly, withdrawal of the rejection under 35 U.S.C. § 102(b) is respectfully requested.

Claim 7:

This embodiment of the present invention is directed to a **pre-shampoo** treatment.

A **pre-shampoo** treatment comprising 0.5-50% by weight of an oil treatment, a solvent selected from the group consisting of **C<sub>1-6</sub> alcohol and aromatic alcohol** and a mixture thereof and from 0-15% by weight by water is nowhere disclosed or suggested in the cited prior art of record.

Altobelli fails to describe a hair treatment composition comprising 0.5 to 50 wt.% of an oil agent and a **solvent** selected from the group consisting of a C<sub>1-6</sub> alcohol and aromatic alcohol and a mixture thereof and from 0-15% by weight by water. The reference fails to describe any solvent for the oil agent, and quite to the contrary the reference suggest that the oil agent exist as a separate phase from the aqueous phase. As such there is no suggestion of the presence of a solvent for the oil agent. If there reference had suggested a solvent for the oil agent being a C<sub>1-6</sub> or aromatic alcohol, then it is unlikely that the oil agent would exist as a

separate phase since C<sub>1-6</sub> and aromatic alcohols are typically miscible with water. The existence of a separate oil agent phase is suggestive of the lack of teaching of a solvent for the oil agent.

Moreover, there is no suggestion of the solvent for the oil agent being a C<sub>1-6</sub> or aromatic alcohol in an amount of water of 0 to 15 wt.%. While the examiner has previously cited to the examples of the reference for a composition containing a oil agent, glycerine as a solvent and water, in all of the examples, the amount of water is **in excess** of 15 wt.% (example 1: 22.75 wt.%, example 2: 50.53 wt. % and example 23: 57.1 wt.%). As such, in each example for which the examiner cites to the presence of a solvent for the oil agent (e.g. glycerin), the amount of water is in excess of the **claim limitation** of 0 to 15 wt.% water. Clearly none of the examples of the reference anticipate the claimed invention as each of the examples contain an amount of water in excess of the claimed range of from 0 to 15 wt.%.

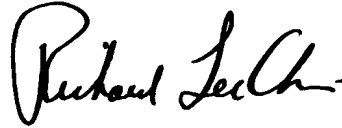
Since the reference does not suggest a composition which contains a solvent for the oil component, and the examples which contain a C<sub>1-6</sub> alcohol (glycerin) contain an amount of water in excess of the claimed range of 0 to 15 wt. %, the claimed invention is clearly neither anticipated nor obvious from the cited reference.

Accordingly, this reference can neither anticipate nor render obvious the claimed pre-shampoo treatment. Since the cited references fail to disclose or suggest the pre-shampooed treatment composition as claimed, the claimed invention is neither anticipated nor obvious from the cited reference and accordingly withdrawal of the rejection under 35 U.S.C. § 102(b) is respectfully requested.

Applicants submit this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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